THE PUBLIC LANDS OF THE UNITED STATES.

THE public domain of the United States, acquired by cession from the several States and by treaty from France, Spain, and Mexico, Texas and Russia, amounts to 2,894,235.91 square miles, or about 1,852,310,000 acres, and its cost was, in round numbers, $322,000,000, of which sum the Government has received back about $200,000,000 for lands sold. Down to July, 1880, the Government of the United States had disposed, by sale, of about 170,000,000 acres; by act of donation, 3,000,000 acres; in bounties for military and naval service, 61,000,000 acres; for internal improvements, 7,000,000 acres; by grants of saline lands to States, 560,000 acres; for town sites and county seats, 150,000; by patent to railway companies, 45,000,000; canal grants, 4,000,000; for military roads, 1,300,000; by sale of mineral lands (since 1866), 148,000; homesteads, 55,000,000; scrip, 2,900,000; coal lands, 10,750; stone and timber lands (act of 1878), 21,000; swamp and overflowed lands given to States, 69,000,000; for educational purposes, 78,000,000; under Timber-culture Act, 9,350,000; Graduation Act of 1854, 25,000,000.

Mineral and timber lands are now our most valuable assets. The pasturage lands are of nominal value apart from the mineral underlying them. Our remaining public lands, exclusive of Alaska, were, in June, 1880, estimated as follows: Timber lands, 85,000,000 acres; coal lands, defined, 5,530,000; precious metal bearing lands, 64,000,000 acres, but this area will be increased as the pasturage and timber lands are explored; lands in Southern States, agricultural, timber, and mineral, 25,000,000; lands irrigable from streams, 30,000,000; pasturage, desert, including certain lands in Indian reservations, and barrens, 565,000,000. The above is exclusive of Alaska.

The survey and disposition of the public domain received earnest attention from the foremost minds of the young republic — from Thomas Jefferson, Nathan Dane, James Madi-

son, Alexander Hamilton, and other eminent statesmen of their day. Sales of lands were first made in blocks of townships and of eight sections, but soon in tracts of six hundred and forty and one hundred and sixty acres, and later of one hundred and twenty, eighty, and forty acres. The Preëmption Act of 1841 was a progressive step, giving a preference to actual settlers, also permitting them to pay for their lands with cash or warrants. But the most important of all our land laws was the Homestead Act of 1862. Down to June 30, 1880, there were 469,782 entries made under this act, embracing 55,667,049 acres, and patents were issued in 162,237 cases, for 19,265,337 acres. The operation of the Homestead Act produces no revenue to the Government, the fees and commissions being but little, if at all, in excess of the cost of survey and disposition; but the nation receives a compensation of more value than money in having our more remote possessions settled by an industrious population, forming the nuclei of prosperous commonwealths.

The "Swamp-Land Grants" and the "Graduation Act" of 1854 are the most indefensible of all the acts of Congress touching the national domain. The canal grants, beginning in 1824, under Mr. Monroe, were of vast benefit. The railroad grants, beginning in 1850 and ending in 1874, are now frequently condemned by individuals as unwise and impolitic. Under these grants about sixteen thousand miles of railway have been constructed, and the locomotive engine has penetrated into regions almost uninhabited, but which were soon occupied by a thrifty population. The extremes of the nation have been bound together, and the assimilation of its different constituent parts greatly forwarded. Still, it would have been better for the railroad companies if money subsidies alone had been given to them, for money is perishable. Their lands are a constant temptation to the demagogue to ply his art and to inflame the passions of the multitude. An acre of land in the Middle States means almost a sustenance for one person; in the Mississippi valley it means fifty bushels of corn; but on the plains among the railway lands it generally means a crop of sage-brush, with a colony of prairie-dogs. It was a prudent statesmanship that made these grants, and they have been productive of immense benefit to the nation.

The worst monopolists of our public lands are those individuals who take possession of them fraudulently by an evasion or a

stretching of the law. The danger of capitalists and speculators "grabbing" public lands has been made a bugbear by these individual monopolists. Whenever capitalists have desired public lands, they have always got them. The needs and requirements of capitalists in mining, timber, and agricultural lands will fix the limit of their purchases. It is a lamentable fact, but not to be denied, that hitherto all restrictions upon bargain and sale have resulted in failure; no matter by whom they are held, the public lands will be used for the purposes they are best adapted to, and the people who occupy them will ever be a law unto themselves as to acquirement and disposition of them. But taxation, exercised by legislatures elected by manhood suffrage, may be trusted to break up great estates.

The land bounties for military and naval service, in nine cases out of ten, benefited persons other than those intended by the law. The grants for education have in many instances been frittered away by the beneficiaries, and the result has been anything but satisfactory. The present advocates of a national system of education, to be supported by the net revenue from the sales of the public lands, are probably unaware how inconsiderable that net revenue is—for the past two years not more than seven cents per acre over and above the expenses. These funds have come principally from sales of agricultural lands; but now that that class of lands is practically exhausted in the West, net revenue will probably cease after 1882.

The land legislation of the past has been largely molded by political considerations. Most of the lands purchased prior to 1867 were acquired by the Democratic party, but they all lay, or were supposed to lie, within the slavery belt. The Whigs and the Republicans enacted the Preëmption Act of 1841, and the Homestead Act of 1862, and opened the land to actual settlement. Texas, acquired at the cost of blood and treasure by the whole nation, was admitted into the Union without being required to surrender her unoccupied lands to the general Government, to be added to the public domain. The aim was to prevent immigration. Later, the State sold to the nation a vast area of sand-hills and deserts for more than twenty-four cents per acre.

Since 1848, the public lands (mineral) have yielded $1,420,041,532 in gold, and $460,422,260 in silver, and the Government has received from mineral lands $486,585, as against expenditures of twice that sum for the protection of the lands or their occupants.

Timber, and saline, mineral, and coal lands are subject to special laws, under which purchasers are not required to be actual settlers. All other lands can be entered under the Preëmption, Desert, Timber-culture, or Homestead acts. In theory, the unit of holdings, or maximum of allowance, is 160 acres for each settler; but such has been the liberality of the nation, and such is the diversity of our land laws, that one settler can take from the public domain 1120 acres, viz.: under the Homestead Act, 130 acres; under the Preëmption Act, the same; under the Desert Land Act, 640 acres; under the Timber-culture Act, 160 acres.

First settlers usually regard the whole country round about them as their own by right of occupation. Consent fixes the boundaries of ranches and herd grounds. The influx of immigrants necessitates surveys, fences, and the curtailment of holdings.

For the proper disposal of the several classes of lands comprised in the national domain, the present laws are quite inadequate. The Mineral Land laws are not sufficiently definite. The Timber and Stone Land acts are mere make-shifts, and of no service to the settler. The Desert Land Act is inoperative because the limited area conceded by it cannot be reclaimed profitably. The Timber-culture Act, conceived in a wise and beneficent spirit, has so far served chiefly as a means of obtaining lands in excess of the legal settlement allowance.

The present system of a commissionership of the General Land-office in the Department of the Interior should be continued. The Commissioner should be more than a mere clerk; should be given more executive authority, and a fair compensation. The clerical force of the Bureau should be increased, with better pay, to the end that the arrears of work, in some instances twenty-five years behind, may be brought up. A proper suite of offices should be provided for the Bureau, where the records will be safe from fire. The fees of Registers and Receivers should be abolished, and their salaries fixed. The present multiplicity of forms, useless and vexatious to applicants, should be abolished. It is necessary that there should be in the Department of the Interior an attorney, learned in land law, with a salary of say $10,000 per year. He should have sufficient sympathy with the hardships of Western life to be equitable to settlers and occupants. Millions of dollars are involved in the land cases decided by the

Commissioner and Secretary. Certainty is required. The overgrown Department of the Interior, with its six Bureaus, requires that the Secretary shall have competent and efficient specialists, on whose judgment and knowledge he can rely.

The present system of survey and parceling of lands for sale and disposition, known as the "rectangular," should be continued, with slight modification. The Deputy Surveyors—in the field at the time of survey—classify the lands as mineral, agricultural, timber, etc. This is subject to correction, by proof, in the district land-offices. The markings upon the ground should be made more permanent, by the use of monuments of iron or stone, and satisfactory evidence should be returned with the surveys, that they have been made as alleged. Mineral surveys are made under special provision, sometimes conforming to the lines of the rectangular system. The loaning of money by individuals to the United States for surveys, as provided for by sections 2401 and 2403, Revised Statutes, should be carefully considered. This private survey system is, in fact, an appropriation of money for surveys about which Congress seems to know nothing. The opportunity for surveying sand-banks and deserts, under this provision, is ample.

The present laws for disposition and sale should not be continued. The repeal of bad and useless laws, and the preparation of a digest of department and court rulings and decisions, should command the earnest attention of Congress.

Much the largest portion of the remaining public domain is, at present, a common,—herders, wood-cutters, lumbermen, and prospectors roam over it at will, most of them unable to acquire title under present laws to what they require for their actual wants, and the public benefit. They are trespassers, invited to become such by the laws. The object of the nation should be to fill the public lands with actual settlers or occupants, and to this end the acquisition of title should be made as easy as possible. Onerous restrictive clauses, and numerous forms thereunder, for entry of lands, are indirect bids for perjury. Hard swearing sometimes evades exacting conditions.

The unit of holding by entry should be made 160 acres, in fact. It is now 1120 acres. The Act of Congress, of June 22d, becoming a law, by non-approval by President Grant, July 4th, 1876,—throwing open the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida to private entry,

at $1.25 per acre in unlimited quantities, thus reversing the policy of holding the public lands for actual settlers,—should be at once repealed. These lands are about all the agricultural lands the nation has left. It is estimated that in area they are more than 25,000,000 of acres. The Homestead Act alone should apply to these lands.

A full and accurate examination of the resources of Alaska should be at once made, not more for scientific than economic purposes.

The present precious metal mining laws should be amended. The Government can aid by wise laws in the production of the precious metals, and do much toward making it as safe and legitimate as any other business. Generally the mining suits arise from disputes as to time or date of location; the record of initiation of title, by location, of mining claims should be filed with the United States land-officers. The size, selection, or location, and condition of occupancy of claims up to the time that title is passed by patent, should lie exclusively in the owner, *i. e.*, the Government. In all other classes of lands this is exacted. Ruinous litigation, accompanied by fraud, murder, and robbery, in many cases, would be avoided. Heretofore, much of the most lucrative mining has been done by attorneys from the stockholders' pockets; shot-guns and breech-loaders are now common aids to enforce rights. One general and specific law, superseding the varied laws of the several States and Territories, should be passed. Free prospecting and exploration should always be the rule, and the prospector should be protected.

The Preëmption Act, now virtually embodied in the eighth section of the Homestead law, should be repealed. It does not operate uniformly, as it does not apply to lands in the Southern States.

The Homestead acts should be consolidated. Enact a law with the unit of 160 acres for holdings, which shall apply to all public lands not mineral or timber. A homestead entry should not be considered as consummated until the patent issues, and the objectionable and useless law requiring settlers to advertise their intention to pay for their lands should be abolished. It is robbery of the settlers, and induces, rather than prevents, fraud.

The enactment of a colony homestead law is urgently needed, permitting colonists to live in a village in the center of the tract, such residence to be considered actual residence on the lands

which they cultivate. This should apply to all lands, not timber or mineral. Isolation, deprivation of social life, lack of neighbors and friends, have heretofore made many Americans reluctant to move upon the distant Western lands. For ten years past, Europe has furnished much the largest number of settlers, whilst our people continued to congregate in the cities. A wise colony-law will enable many of our citizens to obtain homes, and become producers.

The pasturage or grazing lands, usually destitute of water,—an enormous area lying in Oregon, Washington, Nevada, Idaho, Montana, Wyoming, Utah, New Mexico, Colorado, Arizona, and Dakota, Indian Territory and Land Strip,—claim especial attention. At present there is no law for their sale or disposition. Vast herds of sheep and cattle, and bands of horses, worth millions of dollars, roam over these barrens fit only for grazing. Cattle in the "rough" are produced here, and driven to Kansas, Nebraska, or Iowa, where they are fattened upon the otherwise almost useless corn. Two-thirds of these lands are desert wastes, with here and there a stream or spring. The water commands the land. The owner of the water-holes — usually entered under the Homestead or Preëmption acts—is supreme. A fraction of these lands can be reclaimed by irrigation from streams. At present, cattle-ranges are held by consent, and herds are protected by brands and marks. It is in testimony that the grasses upon these lands are fast dying out, largely because of over-pasturing and neglect. In Utah, it is said that, in places, one thousand acres of these lands will not furnish more than subsistence for one ox, and the average in the most favored localities is from five to ten acres to a head of cattle. This cattle and sheep industry is entitled to protection, and some measure should be adopted whereby herd-owners can obtain protection, if not a title to their ranges. Definite ranges, with ownership, are requisite for the increase and growth of this valuable industry. Leasing these lands is open to the objection that our people and institutions are opposed to such tenancy; besides, an army of officers would be required to collect rents, which, in all probability,—as was the case in the lease of the mineral lands by the War Department prior to 1849,—would absorb the income. Underlying some of these lands are enormous beds of coal. Such lands should be segregated and reserved. In the judgment of experts, pasturage

lands generally are not worth more than ten cents per acre, and that would seem to be an exorbitant price for some of them.

The Timber-culture Act should be repealed. The object is a good one, but in practice it is shrouded in mystery. At the expiration of eight years, the Government hears from a person who has filed. He may have done something, or may have done nothing. Nine millions of acres of agricultural lands have been located under it; an additional quantity of land for timber-culture could be added to the present homestead, or the period of settlement shortened, in like entries, in consideration of planting or growing a specified number of trees. The timber lands, usually containing mineral, and unfit for cultivation when cleared,—except a portion in Minnesota, Wisconsin, and Michigan,—should receive attention. They are now in charge of the General Land-office, aided by a corps of efficient local timber agents, who collect stumpage, and report waste and trespass. These agents have collected large revenues for the Government. The timber should be sold in alternate sections, the fee to remain in the Government. Nature would replace much of the cut forest, and the sections from which the timber had been removed would be spaces preventing the spread of fire. Millions of acres of the best timber-lands have passed, and are now passing, into private ownership through perjury under the Preëmption Act, and millions of acres have been stripped of their trees under the filing of a mere declaratory statement, and then abandoned.

The timber on the public domain is absolutely necessary for the development of the country. Mining would be impossible without it, and settlement, as well. The present laws for sale or protection are insufficient. Private ownership will best protect the timber. The amount of speculative theory on this question is simply overwhelming. The fact is patent that the timber on the public lands is being destroyed and wasted by fires caused by lightning, friction, by campers, and by trespassers; and the further fact is before us that a large and growing population living near it requires the timber for domestic and commercial uses. If they cannot get it legally, they will get it illegally. They must have it, and existing laws furnish but little real relief.

The acreage price of the coal lands, now fixed at ten to twenty dollars per acre, is exorbitant. The Bonanza mines, ten acres of which yielded one hundred and eleven million dollars,

were sold for five dollars per acre. The risk and dangers of extraction of the precious and economical minerals, and their use by the people, should almost compensate for the land. The acreage of mineral lands is the pay for their survey, parceling, and disposition.

For the irrigable lands, a reclamation law, or the extension of the allowance under the existing Desert Land Act, should be provided. It should give persons or corporations, under proper regulations, as much land, at $1.25 per acre, as they can reclaim by the introduction of water from streams, or by boring artesian wells. Reclamation of swamp and overflowed lands has been considered wise, and, for the mere reclamation, such lands have been given away to the amount of more than 69,000,000 acres, now the best lands for agriculture in several of the States where they are situated. Surely lack of water, and unfitness for agricultural purposes, should not make lands more valuable than lands valueless by reason of excess of water! Besides, the purchaser pays for desert lands, at $1.25 per acre, while the swamp lands were given away as a premium for reclamation. In private hands these lands may be reclaimed. The nation will not, probably, for some time to come, attempt an expensive and doubtful system of irrigation, either by control of streams by ditches, or by artesian wells. All this will be best done if left to her citizens. Still, experimental borings might be of service, and assist in the determination of the value of the pasturage and irrigable lands. The remaining unconfirmed private land-claims, under grants from former sovereign owners of the soil, Spain, France, and Mexico, should be at once acted upon. In New Mexico and other sections formerly governed by Spain and Mexico, it will require careful judicial scrutiny to determine the validity of the unconfirmed grants. The present facilities are such, owing to the negligence of the United States in not passing a statute of limitation as to the time of filing these claims for grants, that paper titles for alleged grants can be rapidly turned out to order. Millions of acres are herein involved.

Scrip, in settlement of equitable or other land claims, should not be issued. Money compensation would be for the interest of the Government.

All patents issued for agricultural lands should be free from restrictions, and should convey, as they do not now in many cases, the absolute fee. If mineral is found after the issue of a

patent, it should go to the owner of the land; commerce and trade get the metal, no matter who takes it out. When a title is once passed, it should end all controversy. The theory of our Government title is that the lands pass in fee. This should be made so in fact.

The present seems a propitious time to correct and settle the policy for the disposition of the remaining public domain. It has been explored, and its character established. A Government commission has reported to Congress a mass of valuable testimony, and made recommendations in relation to it. The existing settlement laws are mainly for a condition of affairs that is past. Purely agricultural public lands, for which much of the present system was enacted, except in the five Southern States, have practically ceased to be. New laws, now absolutely requisite, should be not alone for the interest of the nation, and the people upon the lands, but for the benefit of those who desire to settle thereon.

Warning and prophetic voices are heard, "Hold these lands for the generations to come." Does this mean that they are to come from Europe? The public lands are now the heritage of Europe and the United States, with a preference in favor of the former. A European, male or female, head of a family or single, above the age of twenty-one years,—by the mere act, immediately upon landing, of declaring his intention of becoming a citizen,—can at once enter upon and hold public lands; and those who are citizens, and were born and have lived in the United States twenty-one years, have no prior right. May not the time be near at hand when the question of uncontrolled immigration will be a vital issue of state-craft?

The true rule, in legislating upon and for the public lands, is, that caring for the present cares for the future. Publicists who follow will be as competent to meet all land questions as are the statesmen of to-day.

THOMAS DONALDSON.